



An  
Bord  
Pleanála

## Inspector's Report ABP-301333-18

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<b>Development</b>	Retention of extension and alterations to forecourt building
<b>Location</b>	Maxol service station, Glasheen Road, Wilton, Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	18/37727
<b>Applicant(s)</b>	Maxol Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Maxol Ltd.
<b>Observer(s)</b>	Glasheen Residents Association Marie & Noel O'Shea
<b>Date of Site Inspection</b>	21 <sup>st</sup> June, 2018
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

The site of the proposed development is located at the Maxol service station which lies on the south side of Glasheen Road, a short distance east of the Wilton Roundabout in Cork City. It is a rectangular-shaped site, some 0.24 hectares in area. It has two vehicular entrances onto Glasheen Road and one on the west side of the site onto Summerstown Road. Development in the immediate vicinity primarily comprises housing, with a large open space located on the opposite side of Glasheen Road. There is a barber shop adjoining the north-west corner of the site at the junction of Glasheen Road and Summerstown Road. The site contains a forecourt area with associated fuel pumps, car wash, parking etc., and a forecourt building which includes a shop, delicatessen/coffee dock, and ATM. The extension to the rear of the site includes storage, freezer and food preparation areas.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise the retention and alterations to a filling station forecourt building. The extension relates to a single-storey lean-to to the rear of the premises, consisting of an area of 68 square metres that is used for ancillary food preparation and storage space. Alterations consist of the removal of partition walls, the relocation of an ATM, the change of use of 39 square metres of storage space to retail use (i.e. to shop and delicatessen/café), and front elevation and signage changes.
- 2.2. A planning statement was submitted with the application which referred to the locational and planning policy contexts, the site's planning history, a description of the development and planning considerations on the proposal.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 7<sup>th</sup> March, 2018, Cork City Council decided to refuse permission for the proposed development for one reason relating to the excessive scale of the shop and the unacceptable intensification of use and additional traffic movements.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the site's planning history, the policy context, reports received, and third party submissions made. It was noted that the shop and two delicatessens to be retained have resulted in the reconfiguration of the shop floor area, with existing storage given over to the shop and a new storage area built to the rear, together with a new food preparation area. It was considered that the principle of the extended shop, delicatessen and restaurant was incompatible with the zoning objective for the area, with the total floor area of the shop/deli now being approximately 190 square metres. It was further considered that the net shop area exceeds the maximum floor area permissible under the Development Plan and was contrary to the Retail Planning Guidelines. The Planner submitted that the shop and goods offer was adversely affecting the vitality and viability of the adjacent district centre at Wilton. Reference was made to the Board's previous decision under ABP Ref. PL 28.237319 and to fillings station shops requiring to be ancillary to the filling station use, with the proposed development affecting the residential area and impacting on traffic and parking. It was stated that it was evident that purchasing fuel was not the primary use. A refusal of permission for three reasons was recommended.

The Senior Executive Planner concurred with the Planner's recommendation subject to one reason for refusal.

#### **3.2.2. Other Technical Reports**

The Environment Engineer had no objection to the proposal subject to conditions.

The Drainage Engineer had no objection to the proposal subject to conditions.

The Roads Design Engineer had no objection to the proposal subject to conditions.

### 3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

### 3.4. Third Party Observations

Objections to the proposed development were received from Glasheen Residents Association, Noel O'Shea, and Michael Falvey. The observations to the Board reflect the principal planning concerns raised.

## 4.0 Planning History

### P.A. Ref. 98/2811

Permission was granted to extend the forecourt building to the east and construct an extension to the west side of the building to provide an ATM, and to extend the retail area of the shop.

### ABP Ref. PL 28.230442

Permission was granted by the Board for a new forecourt building with a 100m<sup>2</sup> shop and 48m<sup>2</sup> food hall.

### ABP Ref. PL 28.237319

An application was made for an extension and alterations to the forecourt building to provide a shop area of 114m<sup>2</sup>, a delicatessen area of 34m<sup>2</sup> and a coffee area of 16m<sup>2</sup>. The Board granted permission subject to a condition that reduced the overall shop and café area by 10m<sup>2</sup> to 154m<sup>2</sup> and to another condition which restricted the use of the shop such that it could not be used as an off-licence.

## 5.0 Policy Context

### 5.1. Cork City Development Plan 2015-2021

#### Zoning

The site is zoned 'ZO 4 Residential, Local Services and Institutional Uses' with the objective "To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3."

### Retail

Objectives include:

#### *Objective 4.4 District Centres*

To support the vitality and viability of Suburban District Centres to ensure that such centres provide an appropriate range of retail and non-retail functions to serve the needs of the community and respective catchment areas, with an emphasis on convenience and appropriate (lower order) comparison shopping, in order to protect the primacy of Cork City Centre.

#### *Objective 4.7 Local Centres and Corner Shops*

- a. To support, promote and protect local centres and corner shops which provide an important retail service at a local level.
- b. To support and facilitate the development of and expansion of existing local centres and corner shops as appropriate where the significant population growth is planned or where a demonstrable gap in existing provision is identified, subject to the protection of residential amenities of the surrounding area. Proposals should provide a mix of uses and services suitable to the scale of the centre and demonstrate the appropriateness of the location.

### Development Management

#### *Fuel Filling Stations*

Applications for petrol stations including refurbishments to existing premises will be required to have a high standard of design and layout. To take account of same, standard corporate designing may need to be modified as required. Consideration will be given to the following: ...

- Any shop being provided shall be ancillary to the principal use of the premises as a filling station and shall be a maximum size of 100 sq. m. excluding storage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- The scale of the development will not have any negative impact on the viability of the Wilton District Centre.
- The proposed development will not have any negative impact on traffic conditions within the forecourt or surrounding area.
- The development will not negatively impact on the residential amenity of surrounding properties.
- There would be no policy or amenity objections to a convenience outlet of similar scale on this site if it did not form part of a filling station.

Without prejudice to the appellant's submission, a drawing of the floor plan identifying an area of floor space which might be altered to form part of the delicatessen is attached for the Board's consideration.

### 6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

### 6.3. Observations

Glasheen Residents Association raised concerns relating to the unauthorised expansion of the outlet adversely affecting residential amenity and traffic safety, the development being contrary to the Retail Planning Guidelines and Cork City Development Plan, and the proposal being contrary to the Board's previous decision under ABP Ref. PL 28.237319.

Marie and Noel O'Shea raise concerns relating to the unauthorised expansion of the outlet adversely affecting residential amenity and traffic safety

## 7.0 Assessment

- 7.1. The proposed development seeks the retention of changes that have been made to the forecourt building of the Maxol service station at Wilton in order to retain increased floor area of this retail outlet. In considering the use of this building in a rational manner one must accept a logical explanation of what exists. This is a shop with associated storage. In this shop, as is common in many shops, one finds islands formed by shelves stocked with goods, a coffee dock area and a delicatessen. In this instance, the delicatessen is a large component of the retail outlet. The delicatessen and shop are wholly integrated. One does not distinguish one from the other. When one enters this forecourt building one enters a shop. I put it to the Board that it is somewhat delusional to consider the building as anything other than a shop with storage on one side of the building. In this shop one may take goods from the shelves, one may order and take goods from behind a deli counter, one may purchase tea/coffee, etc. and one then proceeds to the general counter area and purchases these goods, i.e. at the communal shop counter.
- 7.2. As a service station shop, this is a large shop. Indeed, I am satisfied to speculate that this location was at one time a destination for fuel for motorised vehicles, with the shop in a forecourt building being ancillary to the sale of fuel. I am satisfied to conclude that the shop is now a destination in itself, with the deli component, coffee dock and other retail having a primary function on this site. It may well be that the selling of fuel is an ancillary use, as is suggested by the Planner for Cork City Council.
- 7.3. Having regard to the above, I observe that this shop is meant to be a use that is ancillary to the fuel service station use. It has been expanded significantly in a piecemeal manner to allow the deli/shop to be a primary use. To allow the proposed development is to facilitate further dominance of this use and to undermine further the fuel service station use. Furthermore, it will encourage further development of the shop use into the future.
- 7.4. The scale of the shop is significantly beyond any specified floor area restrictions as set out in the Cork City Development Plan or the *Retail Planning Guidelines*, published by the Department of the Environment, Community and Local Government in 2012. The Development Plan requires any shop being provided at a filling station

to be ancillary to the principal use of the premises as a filling station and to be a maximum size of 100 sq. m. excluding storage. The Guidelines set a floorspace cap for petrol filling station shops of 100m<sup>2</sup> net irrespective of location. These maximum floorspace areas have long been exceeded at the shop the subject of this appeal. Without any retail assessment of the impact of this scale of shop at this location, it is very clear that this proposal is contrary to the provisions of the Development Plan and the Retail Planning Guidelines.

- 7.5. The adverse consequences of the functioning of a shop of this size at this location are visible also. This shop is located where there is a very restricted forecourt. There are particular constraints relating to the availability of car parking and on-site circulation, with difficulties of movement within the forecourt area. The inadequacy of on-site parking results in cars and other vehicles parking on neighbouring streets, particularly on Summerstown Road to the west of the site. This has traffic safety implications for other road users, inclusive of pedestrians. At the time of my inspection, which was for a short mid-morning weekday period, the shop was busy and the forecourt pumps were not. There was a rapid turnover of customers for the shop/deli/coffee dock. I am satisfied to conclude that there are significant traffic concerns associated with the functioning of the shop as on-site parking is inadequate to meet the shop's needs. This shop fronts onto a very busy road, Glasheen Road, immediately east of the Wilton Roundabout, a significant junction beside the Wilton Shopping Centre. Overspill of parking onto adjoining streets is undesirable at such a location and poses a traffic hazard.
- 7.6. With regard to the impact of the shop on Wilton Shopping Centre on the west side of the nearby roundabout, I submit to the Board that it would have a marginal effect on the large shopping centre in terms of overall retail impact. It is incomparable in scale. That district centre is primarily a single destination centre. The retail component of the filling station can reasonably be considered to be small in the context of destination convenience shopping for those interested in visiting Wilton for these purposes. However, I must acknowledge that the deli/coffee dock use, together with the shop, draw people to this location for take-away food and other shopping because it is convenient, i.e. people do not have to encounter the busy accesses and associated delays linked with visiting the large Wilton centre. Further to this impact, it is clear that the scale of this shop would have significant adverse

consequences for other 'corner shops' / small local shops in the immediate vicinity, i.e. shops whose sole function is retail, unlike the fuel service station whose shop use is meant to be an ancillary use.

- 7.7. Finally, I consider that the scale and functioning of this shop and its proximity to residential properties has adverse consequences for residents. The overspill of parking onto the streets causes significant inconvenience and nuisance for residents. One can reasonably understand the frustration of residents where the undertaking of the expansion of this shop has been pursued in an unauthorised manner that has allowed incremental growth of a so-called ancillary use by stealth. The servicing of the shop results, undoubtedly, in increased deliveries or increased scale of vehicles delivering. The servicing of the deli results in the development of a storage/prep area/chill/freezer/goods holding area to the rear which brings the ongoing functioning of this shop to a location that abuts residential property, without any buffer between shop and neighbour. With this functioning comes increased activity, increased noise, security, lighting, etc. and, thus, increased nuisance for residents. I would suggest that the originally conceived functioning of a fuel service station, with ancillary shop, was not meant to have the consequences it now has for its neighbours, as the shop becomes a primary use with its own physical and service demands.
- 7.8. Overall, I am satisfied to conclude that the proposed development constitutes overdevelopment of the shop use on this site, contrary to the development plan provisions and Retail Guidelines and constitutes a development that results in negative traffic impacts and has adverse impacts on its resident neighbours.

## 8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

It is considered that the proposed development would facilitate the expansion of the shop unit associated with the filling station such that it would be significantly in excess of 100 square metres of net retail floor space. The scale of the resultant retail unit would be contrary to the provisions set out in the Cork City Development

Plan 2015-2021 relating to fuel filling stations and would exceed the maximum level of net retail floor space for retail forecourt development as set out in the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012. Furthermore, it is considered that the proposed development would exacerbate the parking deficiencies and on-site circulation restrictions at this service station, resulting in overspill parking onto adjoining streets and vehicular movements into, within and out of the site posing a traffic hazard. In addition, it is considered that the expansion of ancillary facilities to the rear of the forecourt building to service the expanded shop use would have an adverse impact on the amenities of adjoining residential properties by way of noise, overspill parking onto residential streets, and general nuisance resulting from the functioning of the premises. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

23<sup>rd</sup> July 2018